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| 24737 7590 10/16/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510 | | | | |
| EXAMINER | | | | |
| SCHWARTZ, JORDAN MARC | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,416

Applicant(s)

WEEKAMP ET AL.

Examiner

Jordan M. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6,11 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,7-10 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☒ Other: Foreign Reference.

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/IB2005/050265, filed on January 24, 2005.

Specification

The following guidelines illustrate the preferred layout and content for utility patent applications. These guidelines are suggested for the applicant's use. The following section headings are preferably used within the specification where appropriate and each of the numbered items should appear in upper case, without underline or bold type, as sections headings.

1. BACKGROUND OF THE INVENTION
2. SUMMARY OF THE INVENTION
3. BRIEF DESCRIPTION OF THE DRAWINGS
4. DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Claim Objections

Claims 1, 11 and 13 are objected to for the following reason. The claimed "electrically insulating layer covering at least the portion of the surface of the body contacting the electrically conducting fluid" lacks some clarity since applicant has not positively and distinctly claimed that any portion of the surface of the body contacts the electrically conducting fluid. It is suggested that applicant change this portion of these claims to "electrically insulating layer

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covering at least a portion of the surface of the body contacting the electrically conducting fluid” for clarity.

Claim Rejections - 35 USC § 112

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the second electrical connector in contact with the body (the assumed meaning), does not reasonably provide enablement for “wherein the body serves as another electrical connector” (i.e the body as one of the connectors with a portion outside of the package). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Specifically, applicant is claiming the electrical connectors both having portions outside of the package and is then claiming the body as one of the connectors. However, the specification does not support a portion of the body outside of the package but rather supports one of the connectors that is outside of the package in contact with the body. Therefore, for purposes of examination the assumed meaning is “and wherein the second electrical connector is in contact with the body”.

Claims 8 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 8, the claimed “preferably comprises rubber” renders the claim vague and indefinite because it is not clear if being made of rubber is intended as a limitation or not. If rubber is intended as a limitation then it needs to

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be claimed with greater clarity and if not then the "which preferably comprises rubber" should be deleted. For purposes of examination the assumed meaning is "at least one sealing ring comprised of rubber".

With respect to claim 13, the claimed "at least a portion of the electrical connectors is arranged outside of the variable focus lens package" renders the claim vague and indefinite. Specifically, it is not clear if the intended meaning is "at least a portion of both of the electrical connectors is arranged outside of the variable focus lens package" (the assumed meaning for purposes of examination) or whether the term "portion" can mean just one part of one connector i.e. "at least a portion of at least one of the electrical connectors is arranged outside of the variable focus lens package". The lack of clarity renders the claim vague and indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 03/069380 (referred to herein as "380").

380 reads on these claims by disclosing the limitations therein including the following: a variable focus lens package (abstract); comprising a body with a through-hole for providing a light path through the body (Figures 1 and 4, page 3,

lines 3-9, page 6, lines 17-27 the cylindrical body formed by electrode "2"); at least a surface layer of the body comprising an electrically conducting material (page 3, lines 3-5, page 4, line 16, the electrode formed of a metallic material); covers to close off the through hole (Figures 1 and 4, page 3, line 32 to page 4, line 2, Figure 1, transparent covers "4" and "6" or Figure 4, covers "104" and "106"); an electrically insulating fluid and an electrically conducting fluid within the fluid chamber enclosed by the covers and an inner surface of the through hole (Figures 1 and 4, abstract, page 4, lines 3-10); the fluids as non-miscible and in contact over a meniscus (Figures 1 and 4, abstract, page 4, lines 3-10); the shape of the meniscus variable under the application of a voltage between the body and the conducting fluid (Figures 1 and 4, abstract, page 4, line 3 to page 5, line 8); an electrically insulating layer covering at least a portion of the surface of the body contacting the electrically conducting fluid (page 4, lines 15-30, the insulating layer "10" formed of Teflon AF1600); sealing means for sealing the fluid chamber (Figure 1, page 3, line 32 to page 4, line 2); at least one of the covers capable of functioning as a lens (Figure 4, "104" and/or "106"); two electrical connectors for applying a voltage wherein at least a portion of both is arranged outside of the lens package (Figure 1 in which a portion of electrode 12 and a portion of the "electrical connector" that connects the voltage to electrode "2" are disclosed outside of the lens package); one conductor in contact with the conducting fluid (Figure 1, electrode "12") and wherein the second electrical connector is in contact with the body (the assumed meaning, Figure 1, the second connector contacts body "2").

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/069380 (referred to herein as "380") in view of Lea patent number 4,583,824.

With respect to independent claim 1, 380 discloses as is set forth above (such as disclosed above with respect to Figures 1 and 4) but does not specifically disclose clamping means for fixing the body, covers and sealing means with respect to each other under the exertion of clamping forces. Lea teaches that in an optical device having covers, a body, and sealing means to seal two immiscible liquids, that it is desirable to use clamping means to fix the body, covers and sealing means together for the purpose of providing an improved means of holding the device together (Figure 2, column 2, lines 35-59, column 4, lines 44-48). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the body, covers and sealing means of 380 as being affixed together by clamping forces since Lea teaches that in an optical device having covers, a body, and sealing means to seal two immiscible liquids, that it is desirable to use clamping means

to fix the body, covers and sealing means together for the purpose of providing an improved means of holding the device together.

380 and Lea disclose and teach as set forth above and 380 further discloses: at least one of the covers capable of functioning as a lens (Figure 4 embodiment). The lens package of Figure 4 of 580 will inherently have a means during the manufacturing of the package to align the lenses i.e. the covers with the meniscus. 380 further discloses a camera comprising the package (page 6, line 17 to page 7, line 13). A camera will inherently be hand held and will inherently comprise input means, processing means and display means.

Examiner's Comments

For applicant's information, references US2001/0017985 and US 6,369,954 both cited as "X" references on the PCT search report were reviewed by the examiner. However, it is the examiner's view that neither of these references either read on or make obvious the claimed invention.

For applicant's information, with respect to independent claim 13, by broadly claiming "two electrical connectors" with a portion outside of the package and connected as claimed, numerous references would have read on or made obvious this claim, however, such rejections would have been repetitive. Specifically, an electrical wire outside of the package can be considered as an "electrical connector". Therefore, the following references would have read on or made obvious at least claim 13: Renders patent number 7,327,524 (Figure 2 (with one electrical connector being electrode "16" and the second electrical connector being combined electrode "2" and the connecting wire that connects to

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"17"); and Kuiper et al patent number 7,251,392 (Figure 3 with a similar analysis as per Renders above).

Kuiper et al publication number 2006/0072070 would have read on or made obvious a number of the above references claims however, such rejections would have been repetitive (see Figures 2 and 4a-4c and 5a).

Allowable Subject Matter

Claims 2-3, 5, 7-10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: with respect to the allowable subject matter, none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103. Specifically, with reference to claims 2-3, none of the prior art either alone or in combination disclose or teach of the claimed variable focus lens package specifically including, as the distinguishing feature in combination with the other limitations, the clamping means contacting at least one of the electrically conducting surface of the body and the electrically conducting fluid. Specifically, with reference to claims 5 and 12, none of the prior art either alone or in combination disclose or teach of the claimed variable focus lens package specifically including, as the distinguishing feature in combination with the other limitations, the cover capable of functioning as a lens comprising a glass base plate and a plastic lens body attached to the base plate. Specifically, with reference to claim 7, none of the

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prior art either alone or in combination disclose or teach of the claimed variable focus lens package specifically including, as the distinguishing feature in combination with the other limitations, the claimed clamping means and the aligning means comprising an annular positioning member provided on the cover capable of functioning as a lens. Specifically, with reference to claim 8, none of the prior art either alone or in combination disclose or teach of the claimed variable focus lens package specifically including, as the distinguishing feature in combination with the other limitations, the claimed clamping means and the sealing means comprising at least one sealing ring comprised of rubber. Specifically, with reference to claims 9-10, none of the prior art either alone or in combination disclose or teach of the claimed variable focus lens package specifically including, as the distinguishing feature in combination with the other limitations, the claimed clamping means and at least one expansion member which is partially flexible and which is part of a circumscription of the fluid chamber wherein the expansion member is capable of compensating for variations of volume of fluids by keeping a pressure prevailing inside the fluid chamber at a substantially fixed level.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number is 571-272-2337. The examiner can normally be reached on Monday to Friday from 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jordan M. Schwartz
Primary Examiner
Art Unit 2873
October 9, 2008

/Jordan M. Schwartz/
Primary Examiner, Art Unit 2873